UNIVERSITY OF ILLINOIS

Law Forum

VOLUME 1949

COLLEGE OF LAW UNIVERSITY OF ILLINOIS

Copyright, 1949 and 1950, by University of Illinois

PRINTED IN THE UNITED STATES OF AMERICA

UNIVERSITY OF ILLINOIS

Law Forum

A QUARTERLY PUBLISHED BY THE UNIVERSITY OF ILLINOIS
COLLEGE OF LAW

Subscription Price, $3.50 per Volume **$1.00 per Number**

JOHN E. CRIBBET, *Editor* DOROTHY J. KUHNS, *Associate Editor*

Editorial Advisory Board

ALBERT J. HARNO, ALFRED F. CONARD, AND HAROLD MARSH, JR.

Council of Practicing Lawyers

JOHN T. CHADWELL, *Chicago;* WILLIAM H. DILLON, *Chicago;* CHARLES E. FEIRICH, *Carbondale;* VICTOR HEMPHILL, *Carlinville;* ALBERT E. JENNER, JR., *Chicago;* RALPH F. LESEMANN, *East St. Louis;* PHILIP H. WARD, *Sterling;* WALTER A. YODER, *Bloomington;* and MONTGOMERY S. WINNING, *Springfield.*

Views expressed in articles published in this periodical are to be attributed to their authors and not to the periodical, its editors, or the University of Illinois.

CONTENTS

SPRING, 1949

ESTATE PLANNING

		PAGE
The Function of the Lawyer in Estate Planning	*Lewis D. Spencer*	1
Inter Vivos Transfers: Gifts, Joint Ownerships, and Contemplation of Death	*Bernard Epstein*	18
Inter Vivos Transfers: Trusts and Powers of Appointment	*Hubert L. Will*	47
Transfers by Will	*Middleton Miller*	76
Life Insurance and Estate Planning	*C. Ives Waldo, Jr.*	95
Disposition of Business Interest	*William N. Haddad*	115

SUMMER, 1949

ILLINOIS ADMINISTRATIVE PROCEDURE

An Appraisal of Illinois Administrative Procedure Today	*Walter F. Dodd*	181

PAGE

The Illinois Commerce Commission ..... *John Jones Sharon* 192

The Industrial Commission of Illinois ..... *Thomas C. Angerstein* 236

The Department of Revenue of Illinois ..... *Willard Ice* 253

The Department of Labor (Division of Unemployment Compensation) ..... *Samuel C. Bernstein* 278

The Insurance Department ..... *J. Thor Wanless* 297

Judicial Review in Illinois ..... *Russell N. Sullivan* 304

FALL, 1949

ILLINOIS REAL ESTATE TRANSACTIONS

The Contract—Its Content and Significance ..... *Philip H. Ward* 373

Escrows—Their Use and Value ..... *John Mann* 398

Rights of Persons Not Parties to the Contract ..... *Paul W. Gordon* 423

Merchantability of Title ..... *Walter A. Yoder* 438

Significant Aspects of the Deed *Leigh M. Kagy and Norman R. Walker* 455

Tax Problems in Real Estate Transactions ..... *J. Nelson Young* 473

WINTER, 1949

DIVORCE AND SEPARATE MAINTENANCE IN ILLINOIS

Jurisdictional Aspects of Divorce, Annulment, and Separate Maintenance ..... *W. Russell Arrington* 547

Grounds and Defenses in Divorce, Annulment, and Separate Maintenance ..... *Warren W. Kriebel, Jr.* 581

Property Rights as Affected by Divorce, Annulment, and Separate Maintenance ..... *George E. Harbert* 605

The Conflict of Laws in Divorce ..... *Harold W. Holt* 625

Alimony and Its Enforcement ..... *A. J. Scheineman* 654

Tax Problems Involved in Divorce ..... *J. Nelson Young* 670

The Follies of Divorce—A Therapeutic Approach to the Problem ..... *Paul W. Alexander* 695

ARTICLE INDEX

VOLUME 1949

Alimony and Its Enforcement, 654

An Appraisal of Illinois Administrative Procedure Today, 181

The Conflict of Laws in Divorce, 625

The Contract—Its Content and Significance, 373

The Department of Labor (Division of Unemployment Compensation), 278

The Department of Revenue of Illinois, 253

Disposition of Business Interests, 115

Escrows—Their Use and Value, 398

The Follies of Divorce—A Therapeutic Approach to the Problem, 695

The Function of the Lawyer in Estate Planning, 1

Grounds and Defenses in Divorce, Annulment, and Separate Maintenance, 581

The Illinois Commerce Commission, 192

The Industrial Commission of Illinois, 236

The Insurance Department, 297

Inter Vivos Transfers: Gifts, Joint Ownerships, and Contemplation of Death, 18

Inter Vivos Transfers: Trusts and Powers of Appointment, 47

Judicial Review in Illinois, 304

Jurisdictional Aspects of Divorce, Annulment, and Separate Maintenance, 547

Life Insurance and Estate Planning, 95

Merchantability of Title, 438

Property Rights as Affected by Divorce, Annulment, and Separate Maintenance, 605

Rights of Persons Not Parties to the Contract, 423

Significant Aspects of the Deed, 455

Tax Problems in Real Estate Transactions, 473

Tax Problems Involved in Divorce, 670

Transfers by Will, 76

AUTHOR INDEX

VOLUME 1949

Alexander, Paul W., 695
Angerstein, Thomas C., 236
Arrington, W. Russell, 547
Bernstein, Samuel C., 278
Dodd, Walter F., 181
Epstein, Bernard, 18
Gordon, Paul W., 423
Haddad, William N., 115
Harbert, George E., 605
Holt, Harold W., 625
Ice, Willard, 253
Kagy, Leigh M., 455
Kriebel, Warren W., Jr., 581
Mann, John, 398
Miller, Middleton, 76
Scheineman, A. J., 654
Sharon, John Jones, 192
Spencer, Lewis D., 1
Sullivan, Russell N., 304
Waldo, C. Ives, Jr., 95
Walker, Norman R., 455
Wanless, J. Thor, 297
Ward, Philip H., 373
Will, Hubert L., 47
Yoder, Walter A., 438
Young, J. Nelson, 473, 670

INDEX

Student Material

NOTES

PAGE

Necessity and Effect of the Private Seal in Illinois ..... *Richard Faletti* 131

The Need for Revision of the Discovery Procedure in Illinois ..... *Rex Carr* 335

The Relationship Between Embezzlement and Larceny in Illinois ..... *Richard E. Carlson* 715

The Relationship Between the Attorney-General and the State's Attorney in Illinois ..... *J. Martin Lawless* 507

Removal Procedure under Illinois Civil Service .... *Edward J. Murphy* 515

CASE COMMENTS

ADMINISTRATIVE LAW—Effect of Priority in the Field on an Application for a Certificate of Convenience and Necessity (*Gulf Transport Co. v. Illinois Commerce Commission*, Ill. 1948) ..... *Howard Sherman* 347

PAGE

CONFLICT OF LAWS—Effect of Wife's Foreign Ex Parte Divorce Decree upon Independent Suit for Support of Minor Child (*Parker v. Parker*, Ill. App. 1948) ..... *Wesley G. Hall* 151

CONSTITUTIONAL LAW — Anti-"Closed" Shop Legislation Upheld—Due Process (*Lincoln Federal Labor Union v. Northwestern I. & M. Co.*, U. S. 1949) ..... *Kenneth R. Shorts* 350

CONTRACTS—Specific Performance of Canner-Grower Contract (*Campbell Soup Company v. Wentz; Campbell Soup Company v. Lojeski*, Federal 1948) ..... *Ivan A. Elliott, Jr.* 523

CORPORATIONS—Power of President to Sue When Directors Are Deadlocked (*Sterling Industries, Inc. v. Ball Bearing Pen Corporation, et al.*, New York 1949) ..... *Phillip B. Johnson* 525

COVENANTS—A Promise to Pay Money as a Covenant Running with Land (*Mathis v. Mathis*, Ill. 1948) ..... *Rex Carr* 528

CRIMINAL LAW—Rights of a Criminal to Protect Himself Against Information Used in the Ascertaining of His Sentence—Due Process (*William v. New York*, U. S. 1949) *William R. Driscoll* 726

DEEDS—An Unsealed Instrument Held to Convey Title to Land (*Shadden et al. v. Zimmerlee et al.*, Ill. 1948) *Richard E. Carlson* 154

DIVORCE—Conflict of Laws—Divisible Divorce Concept Gives Absent Spouse Double Protection (*Rice v. Rice*, U. S. 1949) *Ernest R. Fraley* 729

DOMESTIC RELATIONS—Effect of Separation Agreement upon the Husband's Duty to Support His Wife (*Haas v. Haas*, N. Y. 1948) ..... *William R. Driscoll* 158

ESTATE TAXATION—Application of the Rule of the Hallock Case (*Spiegel's Estate v. Commissioner*, U. S. 1949) *Robert H. Miller* 353

EVIDENCE—Admissibility of Evidence Obtained by Illegal Search and Seizure (*Wolf v. Colorado*, U. S. 1949) *Charles I. Hopkins* 732

FUTURE INTERESTS—Time of Reference of Words of Survivorship in the Limitation of a Remainder (*Peadro v. Peadro*, Ill. 1948) ..... *William M. Lewers* 530

INCOME TAX—Deductions Under Section 23 (a) (2) of the Internal Revenue Code by a Fiduciary Charged with Mismanagement (*Commissioner of Internal Revenue v. Josephs*, Federal 1948) ..... *Robert H. Miller* 160

PAGE

INSURANCE—Duty of the Insurer to Settle (*Royal Transit Inc. v. Central Surety & Insurance Corporation*, Federal 1948) *Charles I. Hopkins* 361

—Incontestable Clause — Reformation for Mistake After Incontestable Period (*Richardson v. Travelers Ins. Co.*, Federal 1948) ..... *Vincent T. Wasilewski* 534

LABOR LAW—Specific Performance of Collective Bargaining Agreements (*Mountain States Division No. 17, Communication Workers of America v. Mountain States Telephone and Telegraph Company*, Federal 1948) ..... *William B. Davenport* 165

PLEADING, PRACTICE AND PROCEDURE—Effect of Failure to Plead the Statute of Limitations as an Affirmative Defense (*Anderson v. Village Homebuilders*, Ill. 1948) *Arthur Brantman* 170

TAXATION—One Hundred Per cent Assessment of Property under the Butler Bills (*People ex rel. Isbell v. Albert*, Ill. 1949) ..... *William B. Davenport* 735

TORTS—Right of a Viable Child to Maintain an Action for Negligent Prenatal Injuries (*Mays v. Weingarten, Williams v. Marion Rapid Transit, Inc.*, Ohio App. 1948) ..... *Ned A. Fleishman* 537

TRADE REGULATION—Application of Section 3 of the Clayton Act to Requirements Contracts (*Standard Oil Company of California et al. v. United States*, U. S. 1949) .... *Wesley G. Hall* 739

—Functional Discounts and Price Discrimination under the Robinson-Patman Act (*Standard Oil Company v. Federal Trade Commission*, Federal (1949) *Wesley G. Hall* 541

—Girls' Clothing Manufacturer Denied Use of Name of Fashion Magazine (*Triangle Publications, Inc. v. Rohrlich et al.; Rosenbaum et al. v. Triangle Publications, Inc.*, Federal 1948) ..... *Ivan A. Elliott, Jr.* 364

—Quantity Discounts Illegal Except Where Claimant of Benefits Can Prove the Discount Fairly Reflects Cost Savings (*Federal Trade Commission v. Morton Salt Company*, U. S. 1948) ..... *William D. Randolph* 369

TRUSTS—Attempted Partial Revocation of Testamentary Trust by Family Settlement Agreement (*Altemeier v. Harris*, Ill. App. 1948) ..... *Hilmer C. Landholt* 173

WILLS—Revocation of Duplicate Wills (*In re Holmberg's Estate; Wiersema et al. v. People*, Ill. 1948) ..... *Vincent T. Wasilewski* 177